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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,870	01/21/2002	Michael Saucier	1895-010	9212
758	7590	07/03/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			OUELLETTE, JONATHAN P	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/055,870	SAUCIER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jonathan Ouellette	3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2002 and 20 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) 83 and 85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 and 84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of 1-82 and 84 in the reply filed on 4/20/06 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-82 and 84** are rejected under 35 U.S.C. 102(e) as being anticipated by Radjy et al. (US 2002/0010525 A1).
4. As per **independent Claims 1 and 84**, Radjy discloses a method [system] for facilitating transactions between a product brand manager (Equivalent to contractor/AEC with concrete specification) and manufacturing organizations using a transactional computer system (Para 0129-0132), the product brand manager having a product brand and product brand information comprising information for manufacturing the product brand (Drafted Concrete Specification), and there being manufacturing organization information for each of the manufacturing organizations comprising the manufacturing process capabilities of the

respective manufacturing organization (Para 0132, Manufacturer capabilities), the method comprising: communicating the product brand information from the product brand manager to the transactional computer system (Para 0129-0132, AEC Drafts and submits concrete specification); communicating the manufacturing organization information for the manufacturing organizations from the manufacturing organizations to the transactional computer system (Para 0132, data repositories); using the transactional computer system to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization (compare information), the selection comprising using the transactional computer system to compare the product brand information to the manufacturing organization information; and using the transactional computer system to communicate the selection information to the product brand manager (Para 0129-0132, Provide AEC with Manufacture with capabilities to Manufacture specified concrete).

5. As per Claim 2, Radjy discloses wherein the communicating of the product brand information from the product brand manager to the transactional computer system is performed without human intervention at the transactional computer system (Fig.16, Networked system).
6. As per Claim 3, Radjy discloses wherein the communicating of the manufacturing organization information for the manufacturing organizations from the manufacturing organizations to the transactional computer system is performed without human intervention at the transactional computer system. (Fig.16, Networked system).

7. As per Claim 4, Radjy discloses wherein the using of the transactional computer system to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization is performed without human intervention at the transactional computer system.
8. As per Claim 5, Radjy discloses wherein the use of the transactional computer system to compare the product brand information to the manufacturing organization information is performed without human intervention at the transactional computer system.
9. As per Claim 6, Radjy discloses wherein the use of the transactional computer system to communicate the selection information to the product brand manager is performed without human intervention at the transactional computer system.
10. As per Claim 7, Radjy discloses wherein: the product brand manager comprises a product brand manager computer; and the transactional computer system is operatively coupled to the product brand computer to communicate the product brand information from the product brand computer and to communicate the selection information to the product brand computer.
11. As per Claim 8, Radjy discloses wherein: each of the manufacturing organizations comprises a manufacturing organization computer; and the transactional computer system is operatively coupled to each of the manufacturing organization computers to receive the manufacturing organization information from the manufacturing organization computers.

12. As per Claim 9, Radjy discloses wherein: the product brand manager comprises a product brand manager computer; each of the manufacturing organizations comprises a manufacturing organization computer; the transactional computer system is operatively coupled to the product brand computer to communicate the product brand information from the product brand computer and to communicate the selection information to the product brand computer; and the transactional computer system is operatively coupled to each of the manufacturing organization computers to receive the manufacturing organization information from the manufacturing organization computers.
13. As per Claim 10, Radjy discloses wherein the transactional computer system receives the product brand information and the manufacturing organization information from the product brand manager computer and the manufacturing organization computer respectively without human intervention at the transactional computer system and automatically selects the at least one candidate manufacturing organization without human intervention at the transactional computer system.
14. As per Claim 11, Radjy discloses wherein the transactional computer system generates the selection information without human intervention.
15. As per Claim 12, Radjy discloses wherein the transactional computer system communicates the selection information to the product brand manager without human intervention.
16. As per Claim 13, Radjy discloses wherein the transactional computer system comprises at least one computer operatively coupled to a network.
17. As per Claim 14, Radjy discloses wherein the transactional computer system comprises a plurality of computers and a distributed database.

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18. As per Claim 15, Radjy discloses wherein the transactional computer system comprises a local area network.
19. As per Claim 16, Radjy discloses wherein the transactional computer system comprises a wide area network.
20. As per Claim 17, Radjy discloses wherein the product brand manager comprises an owner of the product brand.
21. As per Claim 18, Radjy discloses wherein the product brand manager comprises a product development organization.
22. As per Claim 19, Radjy discloses wherein the product brand comprises a material manufactured by a batch chemical process.
23. As per Claim 20, Radjy discloses wherein the product brand information communication comprises communicating the product brand information to comprise a general recipe.
24. As per Claim 21, Radjy discloses wherein the product brand information communication comprises communicating the product brand information to comprise pricing information.
25. As per Claim 22, Radjy discloses wherein the product brand information communication comprises communicating the product brand information to comprise schedule information.
26. As per Claim 23, Radjy discloses wherein the product brand information communication comprises communicating the product brand information to comprise delivery information.
27. As per Claim 24, Radjy discloses wherein the product brand information communication comprises communicating the product brand information to comprise quality information.
28. As per Claim 25, Radjy discloses wherein the product brand information communicating comprises communicating the product brand information in a general recipe format.

29. As per Claim 26, Radjy discloses wherein the product brand information communicating comprises communicating the product brand information in a normalized format.
30. As per Claim 27, Radjy discloses wherein the manufacturing organizations comprise contract manufacturing organizations.
31. As per Claim 28, Radjy discloses wherein each of the manufacturing organizations comprises a site (inherent to physical manufacturing plant).
32. As per Claim 29, Radjy discloses wherein each of the manufacturing organizations comprises an area (inherent to physical manufacturing plant).
33. As per Claim 30, Radjy discloses wherein each of the manufacturing organizations comprises a process cell (inherent to physical manufacturing plant).

As per Claims 31-39, Radjy discloses wherein the manufacturing organization information comprises information. The type of information (site information, area information, process cell information, equipment information, equipment information, flow information, scheduling information, scheduling information, price information, delivery information, capacity information, plant location information) is considered non-functional, as it has no effect on the functionally claimed method steps. *See In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

34. As per Claim 40, Radjy discloses wherein: each of the manufacturing organizations is capable of manufacturing a product; and the manufacturing organization information for each of the manufacturing organizations comprises the product for the manufacturing organization.



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35. As per Claim 41, Radjy discloses wherein: each of the manufacturing organizations is capable of manufacturing a product within at least one product classification; and the manufacturing organization information for each of the manufacturing organizations comprises the at least one product classification for the manufacturing organization.
36. As per Claim 42, Radjy discloses wherein the manufacturing organization information communicating comprises communicating the manufacturing organization information in a normalized format.
37. As per Claim 43, Radjy discloses excluding the product brand information from the manufacturing organizations.
38. As per Claim 44, Radjy discloses excluding the manufacturing information from the product brand manager.
39. As per Claim 45, Radjy discloses wherein the product brand information communicating comprises communicating the product brand information to comprise a general recipe.
40. As per Claim 46, Radjy discloses wherein the processing comprises converting the general recipe to a plurality of master recipes, and comparing the plurality of master recipes to the manufacturing organization information.
41. As per Claim 47, Radjy discloses wherein the product brand information processing comprises formatting the product brand information to comprise a general recipe.
42. As per Claim 48, Radjy discloses wherein the processing comprises converting the general recipe to a plurality of master recipes, and comparing the plurality of master recipes to the manufacturing organization information.

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43. As per Claim 49, Radjy discloses wherein the processing comprises providing a normalized set of process parameters, and converting the product brand information to the normalized set of process parameters.
44. As per Claim 50, Radjy discloses wherein the manufacturing organization information communication comprises providing a normalized set of process parameters, and providing the manufacturing organization information for each of the manufacturing organizations as the normalized set of process parameters.
45. As per Claim 51, Radjy discloses wherein the processing comprises providing a normalized set of process parameters, and converting the manufacturing organization information for each of the manufacturing organizations to the normalized set of process parameters.
46. As per Claim 52, Radjy discloses wherein the processing comprises: providing a normalized set of process parameters; converting the product brand information to the normalized set of process parameters; and converting the manufacturing organization information to the normalized set of process parameters.
47. As per Claim 53, Radjy discloses wherein the product brand information is stored in a database.
48. As per Claim 54, Radjy discloses wherein the product brand information is stored in a distributed database.
49. As per Claim 55, Radjy discloses wherein the product brand information is stored in a secure database.
50. As per Claim 56, Radjy discloses wherein the manufacturing organization information is stored in a database.

51. As per Claim 57, Radjy discloses wherein the manufacturing organization information is stored in a distributed database.
52. As per Claim 58, Radjy discloses wherein the manufacturing organization information is stored in a secure database (Networked Database).
53. As per Claim 59, Radjy discloses wherein: the product brand information comprises a general recipe; and the processing comprises converting the general recipe into at least one master recipe.
54. As per Claim 60, Radjy discloses wherein the processing comprises converting the general recipe into a plurality of the master recipes (Para 0066, converting specification into material brand names).
55. As per Claim 61, Radjy discloses wherein the processing comprises comparing the plurality of the master recipes with the manufacturing organization information (equivalent comparing with specification).
56. As per Claim 62, Radjy discloses wherein: the product brand information comprises steps required to make the product brand; the manufacturing organization information comprises steps capable of being carried out by the manufacturing organization; and the processing comprises comparing the product brand information steps with the manufacturing organization steps to identify a match.
57. As per Claim 64, Radjy discloses wherein the at least one candidate manufacturing organization selection comprises selecting as the at least one candidate manufacturing organization each of the manufacturing organizations that has at least one master recipe for the general recipe for the product brand.

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58. As per Claim 65, Radjy discloses wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the manufacturing organizations a score, and including within the selection information each of the at least one candidate manufacturing organizations for which the score is above a threshold value.
59. As per Claim 66, Radjy discloses wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the manufacturing organizations a score, and including within the at least one candidate manufacturing organizations a predetermined number of the manufacturing organizations having the highest of the scores.
60. As per Claim 67, Radjy discloses wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information and assigning to each of the manufacturing organizations a rank, and including within the selection information each of the at least one candidate manufacturing organizations in order of the rank.
61. As per Claim 68, Radjy discloses wherein the at least one candidate manufacturing organization selection comprises assessing the extent to which each of the manufacturing organizations matches the product brand information satisfies a weighted set of selection criteria.

62. As per Claim 69, Radjy discloses wherein the selection information comprises the number of manufacturing organizations comprising the at least one candidate manufacturing organizations.
63. As per Claim 70, Radjy discloses wherein the selection information comprises information sufficient to confirm that the at least one candidate manufacturing organization can manufacture the product brand according to the product brand information, but the selection information excludes information sufficient to identify the at least one candidate manufacturing organization.
64. As per Claim 71, Radjy discloses wherein the selection information comprises information useful to the product brand manager.
65. As per Claim 72, Radjy discloses wherein the selection information comprises price information (RFQ or Bid information).
66. As per Claim 73, Radjy discloses wherein the selection information comprises public selection information and private selection information; and the selection information communicating comprises communicating the authorized selection information to the product brand manager and withholding the unauthorized selection information from the product brand manager.
67. As per Claim 74, Radjy discloses wherein the communication of the selection information to the product brand manager comprises communicating the selection information to a product brand manager computer accessible by the product brand manager.
68. As per Claim 75, Radjy discloses wherein the communication of the selection information to the product brand manager comprises communicating the selection information automatically

upon the selection of the at least one candidate manufacturing organization, without human intervention.

69. As per Claim 76, Radjy discloses further comprising communicating the selection information to the at least one candidate manufacturing organization.

70. As per **independent Claim 77**, Radjy discloses a method for facilitating transactions between a product brand manager (Equivalent to contractor/AEC with concrete specification) and manufacturing organizations using a transactional computer system (Para 0129-0132), the product brand manager having a product brand and product brand information comprising information for manufacturing the product brand (Drafted Concrete Specification), and there being manufacturing organization information for each of the manufacturing organizations comprising the manufacturing process capabilities of the respective manufacturing organization (Para 0132, Manufacturer capabilities), the method comprising: communicating the product brand information from the product brand manager to the transactional computer system (Para 0129-0132, AEC Drafts and submits concrete specification); communicating the manufacturing organization information for the manufacturing organizations from the manufacturing organizations to the transactional computer system (Para 0132, data repositories); using the transactional computer system to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization, the selection being carried out by the transactional computer system and comprising confirming that the product brand information comprises a general recipe (Para 0129-0132, Specification

equivalent to recipe) and to the extent the confirmation is not made, converting the product brand information into the general recipe, converting the general recipe into a plurality of master recipes, and comparing the product brand information to the manufacturing organization information (compare/convert specification to known specification/recipe and/or brand name products); and using the transactional computer system to communicate the selection information to the product brand manager (Para 0129-0132, Provide AEC with Manufacture with capabilities to Manufacture specified concrete).

71. As per Claim 78, Radjy discloses wherein the communicating of the product brand information from the product brand manager to the transactional computer system is performed without human intervention at the transactional computer system (Fig.16, Networked system).
72. As per Claim 79, Radjy discloses wherein the communicating of the manufacturing organization information for the manufacturing organizations from the manufacturing organizations to the transactional computer system is performed without human intervention at the transactional computer system (Fig.16, Networked system).
73. As per Claim 80, Radjy discloses wherein the using of the transactional computer system to process the product brand information and the manufacturing organization information to select at least one candidate manufacturing organization from the manufacturing organizations and to generate selection information regarding the at least one candidate manufacturing organization is performed without human intervention at the transactional computer system (Fig.16, Networked system).

74. As per Claim 81, Radjy discloses wherein the use of the transactional computer system to compare the product brand information to the manufacturing organization information is performed without human intervention at the transactional computer system (Fig.16, Networked system).
75. As per Claim 82, Radjy discloses wherein the use of the transactional computer system to communicate the selection information to the product brand manager is performed without human intervention at the transactional computer system (Fig.16, Networked system).

### *Conclusion*

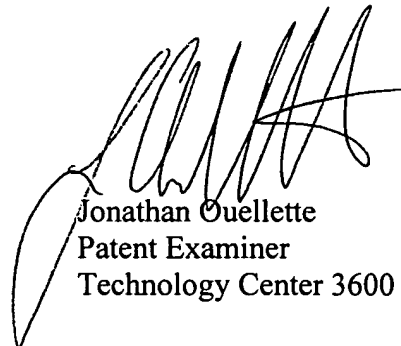
76. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
77. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.
78. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
79. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.



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80. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

June 20, 2006



Jonathan Ouellette  
Patent Examiner  
Technology Center 3600